

# House Bill 2607

Sponsored by Representative JENSON

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Oregon State Police to operate photo radar on Interstate Highway 5.

### A BILL FOR AN ACT

Relating to traffic enforcement; amending ORS 810.438 and 810.439.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 810.438 is amended to read:

810.438. **(1) The Oregon State Police and the jurisdictions designated in subsection (2) of this section may operate photo radar.**

*[(1)]* **(2)** The following jurisdictions may, at their own cost, operate photo radar:

(a) Albany.

(b) Beaverton.

(c) Bend.

(d) Eugene.

(e) Medford.

(f) Portland.

(g) Tigard.

**(3) A photo radar system operated by the Oregon State Police may be operated only on Interstate Highway 5.**

*[(2)]* **(4)** A photo radar system operated by a jurisdiction designated under subsection (2) of this section:

(a) May be used on streets in residential areas or school zones.

(b) May be used in *[other]* areas **not described in paragraph (a) of this subsection** if the governing body of the city makes a finding that speeding has had a negative impact on traffic safety in those areas.

*[(c) May not be used for more than four hours per day in any one location.]*

*[(d)]* **(c)** May not be used on controlled access highways.

**(5) A photo radar system operated under this section may not be:**

**(a) Operated for more than four hours per day in any one location.**

*[(e)]* **(b)** *[May not be]* Used unless a sign is posted announcing that photo radar is in use. The sign must be on the **interstate highway or on the** street on which the photo radar unit is being used and must be no closer than 100 yards and no farther than 400 yards from the location of the unit.

**SECTION 2.** ORS 810.439 is amended to read:

810.439. (1) Notwithstanding any other provision of law, *[in the jurisdictions using photo radar]*

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **when photo radar is used as authorized under ORS 810.438:**

2 (a) A citation for speeding may be issued on the basis of photo radar if the following conditions  
3 are met:

4 (A) The photo radar equipment is operated by a uniformed police officer.

5 (B) The photo radar equipment is operated out of a marked police vehicle.

6 (C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location  
7 of the photo radar unit.

8 (D) Signs indicating that speeds are enforced by photo radar are posted **on Interstate Highway**  
9 **5 at locations determined in accordance with rules adopted by the Department of Transpor-**  
10 **tation or**, so far as is practicable, on all major routes entering [*the*] a jurisdiction **authorized to**  
11 **operate photo radar under ORS 810.438.**

12 (E) The citation is mailed to the registered owner of the vehicle within six business days of the  
13 alleged violation.

14 (F) The registered owner is given 30 days from the date the citation is mailed to respond to the  
15 citation.

16 (G) If the person named as the registered owner of a vehicle in the current records of the De-  
17 partment of Transportation fails to respond to a citation issued under this subsection, a default  
18 judgment under ORS 153.102 may be entered for failure to appear after notice has been given that  
19 the judgment will be entered.

20 (b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of  
21 the vehicle when the citation is issued and delivered as provided in this section.

22 (c) A person issued a citation under this subsection may respond to the citation by submitting  
23 a certificate of innocence or a certificate of nonliability under subsection (3) of this section or may  
24 make any other response allowed by law.

25 (2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the  
26 registered owner of the vehicle or to the driver.

27 (3)(a) If a registered owner of a vehicle responds to a citation issued under subsection (1) of this  
28 section by submitting a certificate of innocence within 30 days from the mailing of the citation  
29 swearing or affirming that the owner was not the driver of the vehicle and a photocopy of the  
30 owner's driver license, the citation shall be dismissed. The citation may be reissued if the **Oregon**  
31 **State Police or** jurisdiction verifies that the registered owner appears to have been the driver at  
32 the time of the violation.

33 (b) If a business or public agency responds to a citation issued under subsection (1) of this sec-  
34 tion by submitting a certificate of nonliability within 30 days from the mailing of the citation stating  
35 that at the time of the alleged speeding violation the vehicle was in the custody and control of an  
36 employee or was in the custody and control of a renter or lessee under the terms of a rental  
37 agreement or lease, and if the business or public agency provides the driver license number, name  
38 and address of the employee, renter or lessee, the citation shall be dismissed with respect to the  
39 business or public agency. The citation may then be issued and delivered by mail or otherwise to  
40 the employee, renter or lessee identified in the certificate of nonliability.

41 (4) The penalties for and all consequences of a speeding violation initiated by the use of photo  
42 radar are the same as for a speeding violation initiated by any other means.

43 (5) A registered owner, employee, renter or lessee against whom a judgment for failure to appear  
44 is entered may move the court to relieve the owner, employee, renter or lessee from the judgment  
45 as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or

1 excusable neglect.

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